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3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
5 OAKLAND DIVISION

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7 CHARLES WANG,

8 Petitioner,

No. C 10-1453 PJH (PR)

9 vs.

10 Probation DAVID PULIDO, et al.,

11 Respondents.
12 /
13 ORDER TO SHOW CAUSE
14 WHY PETITION SHOULD NOT
15 BE DISMISSED FOR FAILURE
16 TO EXHAUST

17 This is a habeas case brought pro se by a state prisoner. Petitioner's amended
18 petition is reviewed here. The amended petition is directed to a revocation of probation.
19 Petitioner has paid the filing fee.

20 An application for a federal writ of habeas corpus filed by a prisoner who is in state
21 custody pursuant to a judgment of a state court may not be granted unless the prisoner has
22 first exhausted state judicial remedies, either by way of a direct appeal or in collateral
23 proceedings, by presenting the highest state court available with a fair opportunity to rule
24 on the merits of each and every issue he or she seeks to raise in federal court. See 28
U.S.C. § 2254(b),(c); *Granberry v. Greer*, 481 U.S. 129, 133-34 (1987). Petitioner has the
burden of pleading exhaustion in his habeas petition. See *Cartwright v. Cupp*, 650 F.2d
1103, 1104 (9th Cir. 1981).

25 Petitioner alleges that the California Court of Appeal "dismissed" his appeal in 2008,
26 as did the California Supreme Court in 2009. He says he has not filed any other petitions,
applications or motions in any court with respect to the probation revocation at issue here.
27 Despite petitioner's reference to his appeal having been dismissed, the California Court of
28 Appeal issued an opinion on the merits. See *People v. Wang*, No. H033411, 2009 WL

1 2415755 at *2 (Cal. App. Aug. 7, 2009). In its opinion, the court of appeal mentions only
2 one issue, sufficiency of the evidence. In his amended petition here, petitioner presents six
3 issues. Because it appears that only one was raised on direct appeal, and because
4 petitioner says that he has not filed any other actions directed to this probation revocation,
5 some or all of the present issues must be unexhausted. At a minimum, he has not
6 adequately pleaded that they are exhausted. *Cartwright*, 650 F.2d at 1104.

7 Within thirty days of the date this order is entered petitioner shall show cause why
8 this petition should not be dismissed for failure to exhaust. If he does not, the case will be
9 dismissed.

10 **IT IS SO ORDERED.**

11 Dated: July 9, 2010.



12 PHYLLIS J. HAMILTON
United States District Judge